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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,712	06/27/2000	Bhalchandra Dattatray Deshpande	2705-106	4923
20575	7590	02/06/2006		
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			EXAMINER ESCALANTE, OVIDIO	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/604,712

Applicant(s)

DESHPANDE, BHALCHANDRA
DATTATRAY

Examiner

Ovidio Escalante

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-13 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 3, 4, 7, 8, 11, 12 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment filed on October 31, 2005. **Claims 1-4, 7-13 and 16-23** are now pending in the present application.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/05 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 9, 10, 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan US Patent 5,659,541.

Regarding claim 1, Chan teaches a method of reducing voice frame network inbound traffic congestion, (abstract; col. 2, lines 46-61), the method comprising:

determining whether a first defined threshold level of inbound voice and data traffic is reached (col. 2, line 62-col. 3, line 7), such that the threshold is examined after the arrival of each packet to the single input queue (arrival buffer 20) (col. 2, line 62-col. 3, line 7);

if the first defined threshold is reached, then discriminating between inbound voice traffic and data traffic within the single input queue, wherein voice traffic comprises packets of voice-encoded data, (col. 3, lines 15-25; voice samples are separated from non-voice samples), and

freeing space within a single input queue for use by inbound voice traffic by eliminating data traffic until the first defined threshold level of inbound traffic no longer is reached, (col. 3, lines 8-25).

Regarding claims 2 and 10, Chan, as applied to claims 1 and 9, teaches wherein said freeing space is performed until a second defined threshold level of inbound traffic is reached, the second defined threshold level being less than the first defined threshold level, (col. 2, lines 1-17; col. 3, lines 8-25; space is freed until the queue depth detector determines that the threshold is no longer established/passed).

Regarding claim 9, Chan teaches an apparatus for use with an input queue representing inbound voice and data traffic on a voice frame network, (abstract; col. 2, lines 46-61), the apparatus comprising:

decision logic determining whether a first defined threshold level of inbound voice and data traffic represented in the input queue is reached upon the reception of each packet of the traffic, (col. 2, line 62-col. 3, line 25) and

queue management logic responsive to an affirmative determination from said decision logic, (col. 3, lines 15-25), said queue management logic discriminating between inbound voice traffic comprised of encoded voice data and data traffic within the input queue (col. 3, lines 15-25; voice samples are separated from non-voice samples) and freeing space within the input

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queue for use by inbound voice traffic by eliminating data traffic until the first defined threshold level of inbound voice and data traffic no longer is reached, (col. 3, lines 8-25).

Regarding claim 13, Chan teaches wherein said decision logic includes an analyzer of the rate at which packets of inbound voice and data traffic arrive in the input queue and comparing the same to predefined arrival rate criteria, (col. 3, lines 8-25).

Regarding claim 16, Chan teaches a computer-readable medium containing a program for reducing voice frame network inbound traffic congestion, (abstract; col. 2, lines 46-61), the program comprising:

instructions for determining whether a first defined threshold level of inbound voice and data traffic is reached in a single input queue upon the arrival of each packet of traffic and if so then signaling such determination, (col. 2, line 62-col. 3, line 7), and

instructions responsive to the signaling for discriminating between inbound voice traffic comprised of encoded voice data and data traffic within a single input queue (col. 3, lines 15-25; voice samples are separated from non-voice samples) and for discarding data traffic thereby to free space within the input queue for use by inbound voice traffic until the first defined threshold level of inbound traffic no longer is reached, (col. 3, lines 8-25).

Regarding claim 17, Chan, as applied to claim 16, teaches wherein the discarding of data is performed until a second defined threshold level of inbound traffic is reached, the second defined threshold level being less than the first defined threshold level, (col. 3, lines 8-25).

Allowable Subject Matter

5. Claims 3,4,7,8,11,12,18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 21-23 are allowed.

Response to Arguments

Applicant's arguments filed October 31, 2005 have been fully considered but they are not persuasive.

Applicant contends that Chan does not teach of data traffic since all of the data as in Chan is encoded data and since the claims, as amended states that the voice data is voice encoded data and that data traffic is digital in nature and therefore would not require A/D conversion. The Examiner respectfully disagrees.

While the claims call for voice traffic comprising packets of voice-encoded data, the claims do not specify any requirements for the data traffic. Since Chan teaches that the voice traffic is voice encoded, as admitted by the Applicant, then Chan meets the newly cited amendment in which the voice traffic comprises packets of voice-encoded data. However, since the claims do not specify e.g. no A/D conversion of the of the data traffic then, Chan is maintained since as stated previously, Chan teaches of the voice traffic comprising data traffic.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis et al. US Patent 6,781,971 teach of a system and method for discarding data packets in response to increased traffic congestion.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OVIDIO ESCALANTE
PATENT EXAMINER
Ovidio Escalante

Ovidio Escalante
Primary Patent Examiner
Group 2645
January 27, 2006

O.E./oe